

REMARKS**I. INTRODUCTION**

Claims 16, 24-26 and 32 have been amended. Claims 16-26 and 28-32 remain pending in the present application. No new matter has been added. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

Claims 16-18, 20-22, 24, 25 and 32 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,540,137 to Forsythe et al. ("the Forsythe patent") in view of U.S. Patent Application Publication No. 2003/0018550 to Rotman et al. ("the Rotman application"). (See 6/8/06 Office Action, ¶ 3).

The Forsythe patent describes a checkout system 10 which is operable in an assisted checkout transaction aided by personnel at a retail store or a self-service checkout transaction performed solely by a customer. (See the Forsythe patent, col. 40, lines 45-51). The system 10 includes a customer interface terminal 78 which consists of a display monitor 78a, a scanner 24 and an electronic payment terminal 44. (Id. at col. 41, lines 15-20; col. 42, line 66 - col. 43, line 7). During the self-service checkout transaction, the customer scans items and views item prices and a total on the display monitor 78a. (Id. at col. 17, lines 14-27). An advertisement corresponding to one of the items or a customer profile loaded in an in-store network is shown on the display monitor 78a. (Id. at col. 17, lines 28-50). Payment is made via a currency acceptor or charging a credit/debit card at the electronic payment terminal 44. (Id. at col. 11, lines 30-63).

The Rotman application describes a system for providing near real-time market information predictions based on money flow maps derived from payment transaction information. (See the Rotman application, ¶ [0024]). During a payment transaction, a merchant

computes a transaction total based on goods and services selected by a customer. (*Id.* at ¶ [0058]). The transaction total is forwarded to a credit card clearinghouse, which in turn, forwards the total to a credit card issuer to seek approval of the total. (*Id.* at ¶ [0058]). If the transaction is approved, the transaction total is put into a transactional database. (*Id.* at ¶ [0058]). Information in the transactional database is scaled and normalized so that it may be applied “to known or newly created models for predicting financial metrics, such as stock price, interest rates or commodity supplies. (*Id.* at ¶ [0057]).

Claim 16 of the present application is directed to a method for conducting a transaction using a cashier-side unit and a customer-response unit, which includes the steps of “receiving, via the communications link of the customer-response unit, content for presentation at the customer-response unit during the transaction, wherein the content is unrelated to data essential for completion of the transaction” and “displaying the content on a display of the customer-response unit, *wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit*” and “collecting information including one of a customer response to the content and a non-response to the content, wherein the one of the response and the non-response is transmitted to an advertisement server in order to collect information about the customer.” According to the present specification, a customer is able to choose whether to respond to an advertisement, promotion or survey. Responses to the content may provide useful information regarding the customer and the lack of an affirmative response to the content is itself an interesting response. (See Specification, page 7, lines 14-19). In order to allow the customer to respond (affirmatively or otherwise) there must be an indication that the customer can respond to the content. The present invention provides this through a customer response unit (CRU), which interacts with the customer to complete or enhance the transaction (e.g., by displaying the content). (*Id.* at p. 8, lines 4-12). Because the customer can choose not to respond, the customer response is not necessary in order to complete the transaction, and the response, or lack thereof, is recorded for the purpose of collecting information about the consumer.

The Examiner maintains that the Forsythe patent discloses allowing customers to either respond or not respond to the content. (See 6/8/06 Office Action, ¶ 5). Specifically, the Examiner has cited an example described in the Forsythe patent, in which the customer has purchased beer and is presented with an advertisement for a related product (pretzels) in response to a scanning of the beer at a payment terminal during a current or previous transaction. (See the Forsythe patent, col. 17, lines 42-51). In this example, the customer may respond to the advertisement by purchasing pretzels, in which case the purchase is recorded in the customer's profile. However, purchasing an advertised item does not constitute an interaction between a customer and a device (e.g., a CRU) that displays the advertisement. The purchase is an *indirect response* in which the customer performs an action that is perceived by the payment terminal, but is not performed upon a device presenting the advertisement (e.g., the display monitor). Neither the payment terminal nor the display monitor can be considered CRUs because neither is equipped for interaction with the customer in the manner recited in claim 16. Thus, it is respectfully submitted that the Forsythe patent neither discloses nor suggests "wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit," as recited in claim 16.

In addition, the Forsythe patent does not teach transmitting one of a response and a non-response to an advertisement server. As discussed above, purchasing an advertised item does not constitute an interaction according to the present invention. Moreover, the customer cannot respond immediately, but must purchase the pretzels *during a subsequent transaction*. Because the purchase is not an "immediate response," the payment terminal cannot determine whether the purchase is actually in response to the advertisement or merely a result of normal consumer behavior. That is, the payment terminal is incapable of knowing the customer's intent based on the mere fact of purchasing the item. There are many reasons besides advertisement-inducement for why the customer may be purchasing the item. For example, the purchase could be for another person, a response to a different advertisement, a purchase that was intended even before the advertisement was shown, etc. Thus, there is no basis for identifying the purchase with the advertisement. The customer profile is no more than a record of purchases with no association

whatsoever to advertisements. Thus, it is respectfully submitted that the Forsythe patent neither discloses nor suggests “collecting information including one of a customer response to the content and a non-response to the content, wherein the one of the response and the non-response is transmitted to an advertisement server in order to collect information about the customer,” as recited in claim 16.

The Rotman application does not cure the deficiencies of the Forsythe patent. Specifically, the Rotman application fails to disclose or suggest displaying interactive content and collecting user responses. Thus, it is respectfully submitted that neither the Forsythe patent nor the Rotman application, either alone or in combination, discloses or suggests “displaying the content on a display of the customer-response unit, wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit” and “collecting information including one of a customer response to the content and a non-response to the content, wherein the one of the response and the non-response is transmitted to an advertisement server in order to collect information about the customer,” as recited in claim 16.

In view of the above remarks, it is respectfully submitted that claims 17-18, 20-22 and 24-25, which depend from and, therefore, include the limitations of claim 16, are allowable for at least the reasons stated above. Furthermore, independent claim 32, which includes substantially the same limitations as claim 16, including “displaying the content on a display of the customer-response unit, wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit” and “receiving and recording customer responses and customer non-responses to the content, wherein the responses and the non-responses are transmitted to an advertisement server in order to collect information about the customer” should be allowable for the reasons stated above.

The Examiner has rejected claims 19, 23, 26 and 28-31 under 35 U.S.C. 103(a) as unpatentable over the Forsythe patent in view of the Rotman application and in further view of

U.S. Patent Application Publication No. 2003/0126020 to Smith et al. ("the Smith application").
(See 6/8/06 Office Action, ¶ 4).

As amended, claim 26 is directed to a system for conducting a transaction which includes "a display for presenting the content, wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit" and "a customer interface for receiving and recording customer input, customer responses and customer non-responses to the content, wherein the responses and the non-responses are transmitted to an advertisement server in order to collect information about the customer." As discussed above with reference to claim 16, neither the Forsythe patent nor the Rotman application discloses or suggests "displaying the content on a display of the customer response unit, *wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit*" and "collecting information including *one of a customer response to the content and a non-response to the content, wherein the one of the response and the non-response is transmitted to an advertisement server in order to collect information about the customer.*" The Smith application is directed to a method for the generation and transmission of electronic receipts. (See the Smith application, Abstract). As such, the Smith application does not cure the deficiencies of the Forsythe patent and the Rotman application. Therefore, it is respectfully submitted that neither the Forsythe patent nor the Rotman application nor the Smith application, either alone or in combination, discloses or suggests "displaying the content on a display of the customer-response unit, wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit" and "a customer interface for receiving and recording customer input, customer responses and customer non-responses to the content, wherein the responses and the non-responses are transmitted to an advertisement server in order to collect information about the customer," as recited in claim 26.

In view of the above remarks, it is respectfully submitted that claims 28-31, which depend from and, therefore, include the limitations of claim 26, are allowable for at least the reasons stated above. Because claims 19 and 23 depend from and, therefore, include the

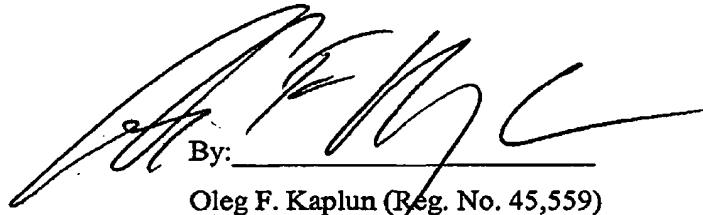
limitations of claim 16, it is respectfully submitted that these claims are allowable for the same reasons as stated above with regard to claim 16.

CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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